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Security Council Committee established pursuant to resolution 2127 (2013) concerning the Central African Republic

Note verbale dated 2 July 2018 from the Permanent Mission of the Netherlands to the United Nations addressed to the Chair of the Committee

The Permanent Mission of the Kingdom of the Netherlands to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 2127 (2013) concerning the Central African Republic and has the honour to submit the national implementation report prepared by the national authorities of the Netherlands pursuant to paragraph 36 of Council resolution 2339 (2017) and paragraph 40 of Council resolution 2399 (2018) (see annex).

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Annex to the note verbale dated 2 July 2018 from the Permanent Mission of the Netherlands to the United Nations addressed to Chair of the Committee

Report of the Netherlands on the implementation of Security Council resolutions 2339 (2017) and 2399 (2018)

Pursuant to paragraph 36 of Security Council resolution 2339 (2017) and paragraph 40 of Council resolution 2399 (2018), the Permanent Mission of the Kingdom of the Netherlands to the United Nations has the honour to inform the Committee of the steps taken by the Kingdom of the Netherlands to implement the measures imposed by the Council in its resolutions 2339 (2017) and 2399 (2018).

The implementation of United Nations sanctions is an autonomous competence of Aruba, Curaçao, Sint Maarten and the Netherlands, although the Kingdom of the Netherlands remains accountable under international law. Only the Netherlands is a member of the European Union.

States members of the European Union implement the provisions of Security Council resolutions that fall within the scope of the competence of the European Union by means of the relevant European regulatory acts, comprising regulations, decisions and common positions of the Council of the European Union. The Netherlands and the other European Union member States have jointly implemented the restrictive measures against the Central African Republic imposed by the Security Council in its resolutions 2339 (2017) and 2399 (2018) by taking the common measures set out below.

Security Council resolution 2339 (2017)

(a) Council Decision (CFSP) 2017/412 of 7 March 2017 amending Council Decision 2013/798/CFSP concerning restrictive measures against the Central African Republic. The Council Decision sets out the European Union's commitment to implementing the measures contained in Security Council resolution 2339 (2017). It specifies several exemptions to the arms embargo imposed by Council Decision 2013/798/CFSP, such as:

(i) The sale, supply, transfer or export of arms and related materiel and the provision of related technical assistance intended solely for the support of or use by the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), the African Union Regional Task Force, the European Union missions and the French forces deployed in the Central African Republic;

(ii) The sale, supply, transfer or export of non-lethal equipment and provision of assistance, including operational and non-operational training to the Central African Republic security forces, including State civilian law enforcement institutions, intended solely for support of or use in the Central African Republic process of security sector reform, in coordination with MINUSCA, and as notified in advance to the Committee established pursuant to Security Council resolution 2127 (2013);

(iii) The sale, supply, transfer or export of arms and related materiel brought into the Central African Republic by Chadian or Sudanese forces solely for their use in international patrols of the tripartite force established on 23 May 2011 in Khartoum by the Central African Republic, Chad and the Sudan, to enhance security in the common border areas, in cooperation with MINUSCA, as approved in advance by the Committee;

(iv) The sale, supply, transfer or export of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the Committee;

(v) The sale, supply, transfer or export of protective clothing, including flak jackets and military helmets, temporarily exported to the Central African Republic by United Nations personnel, personnel of the European Union or its member States, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only;

(vi) The sale, supply, transfer or export of small arms and other related equipment intended solely for use in international patrols providing security in the Sangha River Tri-national Protected Area to defend against poaching, smuggling of ivory and arms, and other activities contrary to the national laws of the Central African Republic or its international legal obligations, as notified in advance to the Committee;

(vii) The sale, supply, transfer or export of arms and other related lethal equipment to the Central African Republic security forces, including State civilian law enforcement institutions, intended solely for support of or use in the Central African Republic process of security sector reform, as approved in advance by the Committee; or

(viii) Other sale, supply, transfer or export of arms and related materiel, or provision of assistance or personnel, as approved in advance by the Committee.

On the basis of Security Council resolution 2339 (2017), Council Decision (CFSP) 2017/412 further specifies that member States shall impose the travel ban and asset freeze on persons designated by the Committee as:

(ix) Engaging in or providing support for acts that undermine the peace, stability or security of the Central African Republic, including acts that threaten or impede the stabilization and reconciliation process or that fuel violence;

(x) Acting in violation of the arms embargo established in paragraph 54 of Security Council resolution 2127 (2013) and article 1 of Decision (CFSP) 2017/412, or as having directly or indirectly supplied, sold, or transferred to armed groups or criminal networks in the Central African Republic, or as having been the recipient of arms or any related materiel, or any technical advice, training, or assistance, including financing and financial assistance, related to violent activities of armed groups or criminal networks in the Central African Republic;

(xi) Involved in planning, directing, or committing acts that violate international human rights law or international humanitarian law, as applicable, or that constitute human rights abuses or violations, in the Central African Republic, including, targeting of civilians, ethnic- or religious-based attacks, attacks on schools and hospitals, and abduction and forced displacement;

(xii) Involved in planning, directing or committing acts involving sexual and gender-based violence in the Central African Republic;

(xiii) Recruiting or using children in armed conflict in the Central African Republic, in violation of applicable international law;

(xiv) Providing support for armed groups or criminal networks through the illicit exploitation or trade of natural resources, including diamonds, gold, wildlife and wildlife products in or from the Central African Republic;

(xv) Obstructing the delivery of humanitarian assistance to the Central African Republic, or access to, or distribution of, humanitarian assistance in the Central African Republic;

(xvi) Involved in planning, directing, sponsoring, or conducting attacks against United Nations missions or international security presences, including MINUSCA, the European Union missions and French operations which support them;

(xvii) Being leaders of an entity designated by the Committee, or having provided support to, or acted for or on behalf of, or at the direction of a person or an entity designated by the Committee, or an entity owned or controlled by a person or entity designated by the Committee.

Council Decision (CFSP) 2017/412 also provides for exemptions to the asset freeze for funds and economic resources which are:

(xviii) Necessary for extraordinary expenses, after notification by the member State concerned to the Committee and approval by the latter;

(xix) The subject of a judicial, administrative or arbitral lien or judgment, in which case the funds and economic resources may be used to satisfy that lien or judgment provided that the lien or judgment was entered into prior to 27 January 2017, and is not for the benefit of a designated person or entity, after notification by the member State concerned to the Committee;

(b) Council Regulation (EU) 2017/400 of 7 March 2017 amending Regulation (EU) No. 224/2014 concerning restrictive measures against the Central African Republic, which gives effect to the measures set out in Council Decision (CFSP) 2017/412;

(c) Council Implementing Regulation (EU) 2017/890 of 24 May 2017 implementing Article 17 (1) of Regulation (EU) No. 224/2014 concerning restrictive measures in view of the situation in the Central African Republic, which implements the designation of additional persons and entities (travel ban and asset freeze);

(d) Council Implementing Regulation 2017/906 of 29 May 2017 implementing Article 17 (3) of Regulation (EU) No. 224/2014 concerning restrictive measures in view of the situation in the Central African Republic, which implements the designation of additional persons and entities (travel ban and asset freeze).

Security Council resolution 2399 (2018)

(a) Council Decision (CFSP) 2018/391 of 12 March 2018 amending Decision 2013/798/CFSP concerning restrictive measures against the Central African Republic. This Council Decision sets out the European Union's commitment to implementing the measures contained in Security Council resolution 2399 (2018). Council Decision (CFSP) 2018/391 amends an exemption contained in Council Decision (CFSP) 2017/412 to also allow the sale, supply, transfer or export of arms and related materiel, and the provision of related technical assistance or financing and financial assistance, intended solely for other forces of States Members of the United Nations that provide training and assistance as notified in advance to the Committee established pursuant to Security Council resolution 2127 (2013). Council Decision (CFSP) 2018/391 further amends the provision contained in Council Decision (CFSP) 2017/412 concerning persons on whom member States must impose the travel ban and asset freeze to reflect the updated designation criteria contained in Security Council resolution 2399 (2018);

(b) Council Regulation (EU) 2018/387 of 12 March 2018, amending Regulation (EU) No 224/2014 concerning restrictive measures in view of the situation

in the Central African Republic, which gives effect to the measures set out in Council Decision (CFSP) 2018/391.

Implementation of Security Council resolutions 2339 (2017) and 2399 (2018) in the Netherlands

The above-mentioned Council Regulations are binding in their entirety and directly applicable to all States members of the European Union. When the above European legislation was adopted, the Minister for Foreign Affairs of the Netherlands entered into negotiations with the relevant ministries and other government bodies in order to lay down the necessary national provisions in secondary legislation within the framework of the Sanctions Act 1977 (Sanctiewet 1977). The Central African Republic (Sanctions) Order 2014 (Sanctieregeling Centraal-Afrikaanse Republiek 2014) and subsequent amendments implement European legislation in the Netherlands.

Financial control

Provisions from international sanctions regimes, such as those of the United Nations and the European Union, have been transposed into nationally applicable standards through the Sanctions Act 1977. The Act states that the Minister of Finance may designate one or more legal entities to monitor compliance with sanctions legislation (the Sanctions Act 1977 and secondary legislation) in relation to financial transactions. In the Legal Entities Designation Order pursuant to the Sanctions Act 1977 (Aanwijzing rechtspersonen Sanctiewet 1977), the Minister of Finance designated the Dutch central bank (De Nederlandsche Bank NV) and the Netherlands Authority for the Financial Markets (Autoriteit Financiële Markten) as supervisors of compliance with sanctions legislation by specific categories of financial institutions. The central bank is responsible for the supervision of credit institutions, trust offices, payment institutions, pension funds and insurers. The Authority supervises the following financial institutions: managers of undertakings for collective investment in transferable securities, managers of alternative investment funds, as referred to in sections 2:65 and 2:66a of the Financial Supervision Act (Wet op het financieel toezicht), and investment firms.

The Supervision Order pursuant to the Sanctions Act 1977 (Regeling Toezicht Sanctiewet 1977), prepared jointly by the Authority and the Dutch central bank, provides financial institutions with a framework for taking measures. There are two types of financial sanctions: an order to freeze assets and a ban or restrictions on providing financial services. These sanctions are intended to prevent undesirable transactions (embargoes) and to combat terrorism. Institutions take measures to ensure that they can identify clients and associates that are legal or natural persons or entities referred to in sanctions legislation. Institutions subsequently ensure that they do not provide financial resources or services to those clients and associates and that they are able to freeze their financial assets.

In short, financial institutions are required to have proper internal controls so that they can meet their obligations under sanctions legislation. They also have an obligation to notify supervisory bodies of any frozen funds or frozen financial assistance. Failure to meet those obligations can result in a penalty under national administrative law. Infringement of those standards is also deemed to be an offence under the Economic Offences Act (Wet op de Economische Delicten). There are currently no reports of frozen funds or frozen financial assistance under European Union Council regulations that derive from the sanctions regime against the Central African Republic.

As part of an annual risk analysis, financial institutions are required to report their activities in countries named under sanctions regimes. The Dutch central bank

assesses the inherent sanctions risks of financial institutions. The information provided is analysed and outliers are assessed. The central bank conducts thematic reviews of compliance with sanctions legislation and takes action in response to occasional incidents (e.g. if a financial institution or other entity reports an alleged breach of sanctions legislation).

In addition to conducting investigations, the Authority operated the Dutch central bank's sanctions alert system in 2017. The central bank uses the system to publicize new sanctions measures of relevance to businesses in the financial sector. In this connection, businesses in the financial sector have been alerted to the upcoming prohibition on the provision of insurance or reinsurance services to vessels which are reasonably believed to be involved in activities prohibited by earlier resolutions, including the transport of banned items.

Arms embargo

The Netherlands has the following national legislation in force requiring an export authorization for the sale, supply, transfer or export of arms and related materiel to third countries and an authorization for the provision of brokering services and other services related to military activities: the General Customs Act (Algemene douanewet), the Strategic Goods Decree (Besluit strategische goederen) and the Strategic Services Act (Wet strategische diensten).

The export control unit is located at the Ministry of Foreign Affairs of the Netherlands and falls under the responsibility of the Minister for Foreign Trade and Development Cooperation. All enforcement activities, however, are the responsibility of the Customs Service, which is part of the Ministry of Finance. In addition to general customs tasks related to sanctions, a special customs unit — the precursors, strategic goods and sanctions legislation team — is responsible for company audits, inspections and investigations. The team also contacts the public prosecutor whenever sufficient evidence has been collected to bring a case to trial. There is a distinction between daily customs tasks at the border (port of Rotterdam and Schiphol airport) and the tasks carried out by the team. Border officials are responsible for checking export declarations and conducting physical checks. Such checks, which are based mainly on risk management (warning signals, intelligence information, etc.), are overseen by the national tactical centre of the Customs Service. Goods are inspected on the basis of the risk profile of goods intended for export to the Central African Republic. Military materiel has a high-risk profile and is automatically checked. The precursors, strategic goods and sanctions legislation team selects cases to be subject to enforcement activity. The team specializes in enforcement, including supervisory inspections (audits) and investigations (including criminal investigations), in relation to drug precursors, strategic goods (dual-use and military) and sanctions and anti-torture legislation. The Ministry of Foreign Affairs works closely with the export control unit and the Customs Service. Planned inspections are jointly implemented, and there is close communication to ensure prompt notification and action whenever irregular behaviour by an organization is observed. Cases are selected on the basis of the severity of a violation and the evidence available. The Customs Service keeps the export control unit updated if a case is brought to the attention of the public prosecutor. Since the submission of the report on the implementation of resolution 2262 (2016), no breaches of the arms embargo on the Central African Republic have been established.

Visa control

The individuals listed in Council Regulation (EU) No. 224/2014 have been registered in the Schengen Information System, which ensures that any Schengen visa application will be denied.